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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues
12 Against:

13 **DOUGLAS RAY RANDOLPH**

14 Respondent.

Case No. *2013 - 583*

STATEMENT OF ISSUES

15 Complainant alleges:

16 **PARTIES**

17 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
18 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
19 Consumer Affairs.

20 2. On or about November 1, 2011, the Board of Registered Nursing (Board) received an
21 application for a Registered Nurse License from Douglas Ray Randolph (Respondent). On or
22 about October 28, 2011, Respondent certified under penalty of perjury to the truthfulness of all
23 statements, answers, and representations in the application. The Board denied the application on
24 April 30, 2012.

25 3. On or about August 16, 2012, the Board received an Application for Licensure by
26 Endorsement by the state of Texas from Respondent. On or about August 14, 2012, Respondent
27 certified under penalty of perjury to the truthfulness of all statements, answers, and
28 representations in the application.

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1 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
2 of the business or profession for which the licensee's license was issued.

3 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
4 conviction following a plea of nolo contendere. Any action that a board is permitted to take
5 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
6 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
7 made suspending the imposition of sentence, irrespective of a subsequent order under the
8 provisions of Section 1203.4 of the Penal Code."

9 7. Section 2736 provides, in pertinent part, that the Board of Registered Nursing (Board)
10 may deny a license when it finds that the applicant has committed any acts constituting grounds
11 for denial of licensure under section 480 of that Code.

12 8. Section 2761 states, in pertinent part:

13 "The board may take disciplinary action against a certified or licensed nurse or deny an
14 application for a certificate or license for any of the following:

15 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

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17 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
18 functions, and duties of a registered nurse, in which event the record of the conviction shall be
19 conclusive evidence thereof."

20 9. Section 2762 states, in pertinent part:

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22 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
23 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
24 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
25 himself or herself, any other person, or the public or to the extent that such use impairs his or her
26 ability to conduct with safety to the public the practice authorized by his or her license.

27 "(c) Be convicted of a criminal offense involving the prescription, consumption, or self-
28 administration of any of the substances described in subdivisions (a) and (b) of this section, or the

1 possession of, or falsification of a record pertaining to, the substances described in subdivision (a)
2 of this section, in which event the record of the conviction is conclusive evidence thereof.”

3 REGULATORY PROVISIONS

4 10. California Code of Regulations, title 16, section 1444 states, in pertinent part:

5 “A conviction or act shall be considered to be substantially related to the qualifications,
6 functions or duties of a registered nurse if to a substantial degree it evidences the present or
7 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
8 safety, or welfare.”

9 FIRST CAUSE FOR DENIAL OF APPLICATION

10 (Convictions of Substantially Related Crimes)

11 11. Respondent's application for a Registered Nurse License and application for
12 Licensure by Endorsement are subject to denial under sections 2761, subdivision (f) and 480,
13 subdivision (a)(1), in that Respondent was convicted of crimes substantially related to the
14 qualifications, functions or duties of a registered nurse, as follows:

15 a. On or about July 24, 2008, after pleading guilty, Respondent was convicted of one
16 misdemeanor count of violating Michigan Penal Code section 750.483A4A [interfering with a
17 police investigation] in the criminal proceeding entitled *The People of the State of Michigan v.*
18 *Douglas Ray Randolph* (Dist. Ct. Benzie County, 2008, No. 2008000206). The Court sentenced
19 Respondent to serve 1 day in Benzie County Jail and placed him on 24 months probation, with
20 terms and conditions. The circumstances surrounding the conviction are that on or about July 24,
21 2008, Respondent interfered with a police investigation, by giving, offering to give, or promising
22 to give anything of value to any person, to wit: Respondent promised not to implicate J.H. in
23 known criminal activity, to influence a person's statement to a police officer conducting a lawful
24 investigation of a crime, and/or to influence the presentation of evidence to a police officer
25 conducting a lawful investigation of a crime.

26 b. On or about April 7, 1998, after pleading guilty, Respondent was convicted of one
27 misdemeanor count of violating Tennessee Traffic Code section T40 [reckless driving] and one
28 misdemeanor of violating Tennessee Traffic Code section T20 [leaving scene of accident after

1 death or injury] in the criminal proceeding entitled *The People of the State of Tennessee v.*
2 *Douglas Ray Randolph* (General Sess. Ct. Montgomery County, 1998, Nos. 136338113051 and
3 136338113052). The Court sentenced Respondent to serve 15 days in Montgomery County Jail
4 and placed him on 6 months probation, with terms and conditions. The circumstances
5 surrounding the conviction are that on or about February 16, 1998, Respondent drove a vehicle in
6 a willful or wanton disregard for the safety of persons or property and left the scene of an
7 accident after a death or injury.

8 c. On or about August 28, 1997, after pleading guilty, Respondent was convicted of one
9 misdemeanor count of violating Tennessee Traffic Code section T40 [reckless driving] in the
10 criminal proceeding entitled *The People of the State of Tennessee v. Douglas Ray Randolph*
11 (General Sess. Ct. Montgomery County, 1997, No. 120327096049). The Court placed
12 Respondent on 6 months probation, ordered him to pay fines, and restitution. The circumstances
13 surrounding the conviction are that on or about June 21, 1997, Respondent drove a vehicle in a
14 willful or wanton disregard for the safety of persons or property.

15 d. On or about September 12, 1991, after pleading guilty, Respondent was convicted of
16 one misdemeanor count of violating Tennessee Vehicle Code section Z01 [driving under the
17 influence of alcohol] in the criminal proceeding entitled *The People of the State of Tennessee v.*
18 *Douglas Ray Randolph* (General Sess. Ct. Montgomery County, 1991, No. 262234961743). The
19 Court sentenced Respondent to serve 2 days in Montgomery County Jail and placed him on 11
20 months and 29 days of probation, ordered him to complete an alcohol abuse program, with terms
21 and conditions. The circumstances surrounding the conviction are that on or about August 23,
22 1991, Respondent drove a vehicle under the influence of alcohol.

23 **SECOND CAUSE FOR DENIAL OF APPLICATION**

24 **(Acts Warranting Denial of Licensure)**

25 12. Respondent's applications are subject to denial under section and 480, subdivisions
26 (a)(3)(A) and (a)(3)(B), in that Respondent committed acts which if done by a licentiate would be
27 grounds for suspension or revocation of his license, as follows:
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a. Respondent was convicted of a crime substantially related to the qualifications, functions, or duties of a registered nurse which to a substantial degree evidences his present or potential unfitness to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare, in violation of sections 2761, subdivision (f) and 490, in conjunction with California Code of Regulations, title 16, section 1444. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 11, as though set forth fully.

b. Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to himself, another person, or the public, in violation of section 2761, subdivision (a), as defined in section 2762, subdivision (b). Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 11, subparagraph (d), as though set forth fully.

c. Respondent was convicted of a crime involving the consumption of alcohol, in violation of section 2761, subdivision (a), as defined in section 2762, subdivision (c). Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 11, subparagraph (d), as though set forth fully.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Denying the application of Respondent Douglas Ray Randolph for a Registered Nurse License; and

2. Denying the application of Respondent Douglas Ray Randolph for Licensure by Endorsement by the state of Texas;

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3. Taking such other and further action as deemed necessary and proper.

DATED: JANUARY 24, 2013


LOUISE R. BAILEY, M.Ed., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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